

First print



New South Wales

Sydney Harbour Foreshore Authority Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to constitute the Sydney Harbour Foreshore Authority and to specify its functions. The new Authority will exercise the functions currently exercised by the Sydney Cove Redevelopment Authority, the City West Development Corporation and the Darling Harbour Authority in a defined foreshore area that extends generally from Camerons Cove at Balmain to Elizabeth Bay at Potts Point. The existing authorities are to be dissolved.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation. The dissolution of the Darling Harbour Authority, and the repeal and amendment of legislation relating to the Darling Harbour Authority, cannot take place before 1 January 2001.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 provides that notes in the proposed Act do not form part of it.

Part 2 Classification of land for the purposes of this Act

Clause 5 defines the *foreshore area*.

Clause 6 defines the *core land* of the Authority. The core land of the Authority is land that it cannot dispose of, except in extremely limited circumstances.

Clause 7 defines the *non-core land* of the Authority. The non-core land of the Authority is land it can dispose of with the consent of the Minister.

Clause 8 defines the *managed land* of the Authority. The managed land of the Authority is that part of the foreshore area, not being core or non-core land, that is managed by the Authority under an agreement with the owner or occupier of the land.

Clause 9 defines *the public domain*. The public domain consists of the public places (within the meaning of the *Local Government Act 1993*) that are situated within the foreshore area and that are vested in or managed by the Authority.

Part 3 Constitution of Authority

Clause 10 constitutes the Authority. It is a memberless corporation having a Board (see clause 29) and a Chief Executive Officer (see clause 30) who is to be responsible for the day-to-day management of the affairs of the Authority in accordance with the specific policies and general directions of the Board.

Clause 11 provides that the Authority is a statutory body representing the Crown.

Part 4 Functions of Authority

Division 1 Principal functions

Clause 12 sets out the functions of the Authority. They include the following:

- (a) to protect the natural and cultural heritage of the foreshore area,
- (b) to promote, co-ordinate, manage, undertake and secure the orderly and economic development and use of the foreshore area, including the provision of infrastructure,
- (c) to promote, co-ordinate, organise, manage, undertake, secure, provide and conduct cultural, educational, commercial, tourist, recreational, entertainment and transport activities and facilities.

Clause 13 requires the Authority to keep a register of its land holdings.

Clause 14 enables the Authority to carry out other functions that are conferred or imposed on it by or under the proposed Act or other Acts, as well as incidental functions.

Clause 15 requires the Authority, in carrying out any development, to take into consideration the principles of ecologically sustainable development.

Clause 16 provides that the Authority is not limited in the exercise of its functions to the foreshore area.

Division 2 Ancillary functions

Clause 17 enables the Authority to acquire land, by agreement or by compulsory process.

Clause 18 provides a means by which the Authority may acquire, or take the management of, land within the foreshore area that is owned by a public authority but that is not being used by the public authority for its core activities. *Public authority* does not include a council.

Clause 19 prevents the Authority from disposing of core land, except in extremely limited circumstances.

Clause 20 enables the Authority to dispose of non-core land with the consent of the Minister.

Clause 21 enables the Authority to dedicate land for a public purpose or as a public road.

Clause 22 prevents a road on core land, non-core land or managed land from being provided or from being changed except with the consent of the Authority. The clause also makes the Authority a roads authority for the purposes of the *Roads Act 1993* in respect of the roads vested in it.

Clause 23 confers functions on the Authority in relation to the parking of vehicles.

Clause 24 enables the Authority to acquire property by gift, devise or bequest.

Clause 25 controls the dealings the Authority may have with property acquired by gift, devise or bequest.

Clause 26 enables the Authority, in the exercise of its functions, to arrange for the use of the services of any other person, including a government agency or a council.

Clause 27 enables the Authority to delegate its functions.

Part 5 Management of Authority

Clause 28 places the Authority under the control and direction of the Minister in the exercise of its functions.

Clause 29 provides for the Board of the Authority. The Board is to consist of the Chief Executive Officer, the Director-General of the Department of Urban Affairs and Planning and up to 5 persons appointed by the Minister.

Clause 30 specifies the responsibilities of the Chief Executive Officer. Any thing done by the Chief Executive Officer in the name of the Authority is taken to have been done by the Authority.

Clause 31 provides for the appointment of the Authority's staff and enables the Authority to engage consultants or other persons for the purpose of obtaining services, information and advice.

Clause 32 enables the Authority to appoint rangers. The functions of rangers are to be prescribed by regulations to be made under the proposed Act.

Part 6 Finance

Clause 33 establishes the Sydney Harbour Foreshore Fund within the Special Deposits Account and provides for the payment of money into and out of the Fund.

Clause 34 enables the investment of money in the Sydney Harbour Foreshore Fund.

Clause 35 enables the Authority to administer a fund established for the provision of services within the foreshore area into which money is paid by persons who carry on business within the foreshore area. The fund is to be audited by the Auditor-General.

Part 7 Miscellaneous

Clause 36 enables the Minister to appoint advisory committees, to specify their functions, to appoint their members and to determine their terms of office and remuneration.

Clause 37 makes it an offence for a person to disclose information obtained in connection with the administration of the proposed Act, except in specified circumstances.

Clause 38 makes it an offence for a person to misuse confidential information obtained through association with the Authority relating to dealings in land.

Clause 39 absolves a member of the Board, the Chief Executive Officer or a person acting under the direction of the Authority, the Board or the Chief Executive Officer from personal liability for any thing done or omitted in good faith for the purpose of executing an Act (including the proposed Act).

Clause 40 specifies the financial year of the Authority.

Clause 41 provides for the keeping and application to documents of the seal of the Authority.

Clause 42 enables the Authority to recover money due to it as a debt.

Clause 43 provides that the proposed Act binds the Crown.

Clause 44 provides for the summary prosecution of offences against the proposed Act and the regulations.

Clause 45 enables the amendment of Schedule 1 (which defines the foreshore area) by regulation.

Clause 46 enables the Governor-in-Council to make regulations for the purposes of the proposed Act.

Clause 47 amends the *Growth Centres (Development Corporations) Act 1974* to omit matter relating to the constitution of the City West Development Corporation.

Clause 48 repeals the *Sydney Cove Redevelopment Authority Act 1968*.

Clause 49 repeals the *Darling Harbour Authority Act 1984* and certain other Acts and statutory instruments relating to Darling Harbour.

Clause 50 amends various Acts and statutory instruments specified in Schedule 3 as a consequence of the dissolution of the Sydney Cove Redevelopment Authority and the City West Development Corporation.

Clause 51 amends various Acts and statutory instruments specified in Schedule 4 as a consequence of the dissolution of the Darling Harbour Authority.

Clause 52 gives effect to Schedule 5 which contains provisions of a savings and transitional nature required as a consequence of the enactment of the proposed Act.

Clause 53 requires the Minister to review the proposed Act within 5 years after the date of assent and to report the outcome of the review to each House of Parliament.

Schedules

Schedule 1 contains a description of the foreshore area.

Schedule 2 contains provisions concerning the constitution and procedure of the Board of the Authority.

Schedule 3 contains amendments to various Acts and statutory instruments as a consequence of the dissolution of the Sydney Cove Redevelopment Authority and the City West Development Corporation.

Schedule 4 contains amendments to various Acts and statutory instruments as a consequence of the dissolution of the Darling Harbour Authority.

Schedule 5 contains savings, transitional and other provisions consequent on the enactment of the proposed Act. The Schedule includes provisions for:

- the making of regulations of a savings or transitional nature
- the dissolution of the Sydney Cove Redevelopment Authority
- the transfer of staff of the Sydney Cove Redevelopment Authority
- the dissolution of the City West Development Corporation
- the transfer of certain staff attached to the City West Development Corporation

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Explanatory note

- the dissolution of the Darling Harbour Authority
- the appointment of the Chief Executive Officer of the Authority
- the status of holders of certain executive positions with the former Authorities
- the vesting of assets and liabilities in the Authority.



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Sydney Harbour Foreshore Authority Bill 1998

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New South Wales

Sydney Harbour Foreshore Authority Bill 1998

No , 1998

A Bill for

An Act to constitute the Sydney Harbour Foreshore Authority and to specify its functions; to repeal the *Sydney Cove Redevelopment Authority Act 1968* and the *Darling Harbour Authority Act 1984*; to amend certain Acts and instruments consequentially; and for other purposes.

Clause 1 Sydney Harbour Foreshore Authority Bill 1998

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Sydney Harbour Foreshore Authority Act 1998*.

2 Commencement

5

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) A day appointed under this section with respect to the commencement of sections 49 and 51, Schedule 4 and clauses 7, 8 and 9 of Schedule 5 must not be a day occurring before 1 January 2001. 10

3 Definitions

In this Act:

Authority means the Sydney Harbour Foreshore Authority constituted by this Act. 15

Board means the Board, established by this Act, of the Authority.

Chief Executive Officer means the Chief Executive Officer of the Authority holding office as such under Part 2 of the *Public Sector Management Act 1988*.

core land—see section 6. 20

council has the same meaning as in the *Local Government Act 1993*.

development has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

exercise a function includes perform a duty. 25

foreshore area—see section 5.

function includes a power, authority or duty.

managed land—see section 8.

non-core land—see section 7.

the public domain—see section 9.

5

4 Notes

Notes included in this Act do not form part of this Act.

Part 2 Classification of land for the purposes of this Act

5 Foreshore area

For the purposes of this Act, the *foreshore area* means the area
of land described in Schedule 1.

5

6 Core land

For the purposes of this Act, *core land* means the land within the
foreshore area that is vested in the Authority, being:

- (a) that part of the land that, immediately before the
commencement of this section, was within the
development area (within the meaning of the *Sydney Cove
Redevelopment Authority Act 1968*) and was vested in the
Sydney Cove Redevelopment Authority, and 10
- (b) that part of the land at Pyrmont that, immediately before
the commencement of this section, was vested in the City
West Development Corporation and is shown as bounded
by a broken black line and a heavy black line on the map
referred to in Schedule 1, and 15
- (c) the land that is vested in the Authority by clause 14 of
Schedule 5, and 20
- (d) on and from the day appointed by proclamation under
section 2 (2), that part of the land that, immediately before
that day, was within the Development Area (within the
meaning of the *Darling Harbour Authority Act 1984*) and
was vested in the Darling Harbour Authority, and 25
- (e) any other land that is acquired by the Authority after the
commencement of this section and that is declared by the
regulations to be core land.

Note. The core land of the Authority is land that, because of section 19, the
Authority has no power to dispose of, except in extremely limited
circumstances. 30

7 Non-core land

For the purposes of this Act, *non-core land* means that part of the land within the foreshore area, not including core land, that is vested in the Authority from time to time.

Note. The non-core land of the Authority is land that, because of section 20, the Authority may dispose of with the consent of the Minister.

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8 Managed land

For the purposes of this Act, *managed land* means that part of the foreshore area, not being core land or non-core land, that is managed by the Authority under an agreement with the owner or occupier of the land.

10

9 The public domain

For the purposes of this Act, *the public domain* means the public places (within the meaning of the *Local Government Act 1993*) that are situated within the foreshore area and that are vested in or managed by the Authority.

15

Note. The public domain may comprise core land, non-core land or managed land.

Clause 10 Sydney Harbour Foreshore Authority Bill 1998

Part 3 Constitution of Authority

Part 3 Constitution of Authority

10 Constitution of Authority

There is constituted by this Act a corporation with the corporate name of the Sydney Harbour Foreshore Authority.

11 Status of Authority

5

The Authority is, for the purposes of any Act, a statutory body representing the Crown.

Note. The management of the Sydney Harbour Foreshore Authority is provided for in Part 5 of this Act. The Authority has a Board and a Chief Executive Officer. The Authority is also subject to the control and direction of the Minister. 10

Part 4 Functions of Authority

Division 1 Principal functions

12 Functions—generally

- (1) The Authority has the following functions:
 - (a) to protect and enhance the natural and cultural heritage of the foreshore area, 5
 - (b) to promote, co-ordinate, manage, undertake and secure the orderly and economic development and use of the foreshore area, including the provision of infrastructure,
 - (c) to promote, co-ordinate, organise, manage, undertake, secure, provide and conduct cultural, educational, commercial, tourist, recreational, entertainment and transport activities and facilities. 10
- (2) In addition, the Authority has the following functions in relation to particular classes of land within the foreshore area: 15
 - (a) in relation to core land—to develop and manage core land,
 - (b) in relation to non-core land—to develop, manage and deal in non-core land,
 - (c) in relation to managed land—to manage managed land in accordance with the terms of the agreement with the owner or occupier of the land, 20
 - (d) in relation to the public domain—to enhance and manage the landscape of the public domain and to improve, maintain and regulate the use of the public domain.

13 Land register 25

- (1) The Authority must establish and maintain a register of all land that is, from time to time, vested in or managed by the Authority.
- (2) The register must include the class of the land according to its classification under Part 2.
- (3) The register must be established within 12 months after the date of commencement of this section. 30
- (4) The register is to be open for public inspection without cost at the office of the Authority during ordinary office hours.

14 Other functions

- (1) The Authority has such other functions as are conferred or imposed on it by or under this or any other Act.
- (2) The Authority may do all such supplemental, incidental or consequential acts as may be necessary or expedient for the exercise of its functions. 5

15 Development of land—principles of ecologically sustainable development

In carrying out any development, the Authority is to take into consideration the principles of ecologically sustainable development within the meaning of the *Local Government Act 1993*. 10

16 Land on and in relation to which Authority's functions may be exercised

The Authority is not limited to exercising its functions on or in relation to land within the foreshore area. 15

Division 2 Ancillary functions

17 Acquisition of land

- (1) The Authority may acquire land, for the purposes of this Act, by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. 20
- (2) For the purposes of the *Public Works Act 1912*, any acquisition of land under this Act is taken to be an authorised work, and the Authority is, in relation to that authorised work, taken to be the Constructing Authority. 25
- (3) Sections 34, 35, 36 and 37 of the *Public Works Act 1912* do not apply to or in respect of works constructed under this Act.

18 Management of land of other public authorities

- (1) If the Minister for a public authority that owns land within the foreshore area agrees that the land is not being used for the core activities of the public authority, the public authority must transfer: 5
- (a) the land, or
 - (b) the management of the land,
- to the Authority, subject to any terms and conditions agreed to between that Minister and the Minister administering this Act.
- (2) An agreement may state whether the transfer is subject to the payment of compensation and, if compensation is to be paid, the amount of the compensation or the basis on which it is to be determined. 10
- (3) Duty under the *Duties Act 1997* is not chargeable for or in respect of: 15
- (a) a transfer effected in accordance with an agreement under this section or a voluntary transfer of land to the Authority by a public authority, or
 - (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or conveyance of an interest in land). 20
- (4) A public authority whose land is managed by the Authority under an agreement with the public authority may delegate its functions to the Authority, despite the provisions of any other Act.
- (5) In this section: 25
- Minister for a public authority*** means the Minister administering:
- (a) the Act by which the public authority is constituted or established, or
 - (b) in the case of a subsidiary, the Act by which the subsidiary's parent is constituted or established. 30

public authority includes:

- (a) a State owned corporation within the meaning of the *State Owned Corporations Act 1989* and a subsidiary within the meaning of that Act of such a corporation, and
- (b) the Marine Ministerial Holding Corporation constituted by the *Ports Corporatisation and Waterways Management Act 1995*, 5

but does not include a council.

19 Disposal of core land

- (1) The Authority has no power to sell or exchange core land, or to otherwise dispose of the fee simple estate in core land, except by way of surrender to the Crown or except as provided by subsection (2). 10
- (2) The Authority may, with the consent of, and subject to any conditions imposed by, the Minister: 15
 - (a) mortgage, or grant a charge over, core land, or
 - (b) exchange core land for land within the foreshore area that adjoins or is adjacent to the core land to be exchanged, or
 - (c) in respect of a road that is core land:
 - (i) in the case of a public road, consent to an order being made under the *Roads Act 1993* to transfer the road to another roads authority, or 20
 - (ii) in the case of a road that is not a public road, transfer the road to the Sydney City Council.
- (3) The Authority may, with the consent of the Minister and subject to such conditions as the Minister thinks fit, lease or grant licences in respect of core land and grant easements or rights-of-way over core land. 25
- (4) This section does not require the Authority to obtain the consent of the Minister to a lease or licence for a term that, together with the term of any further lease or licence that may be granted under an option in respect of it, does not exceed 5 years. 30
- (5) A lease or licence granted under this section must not have a term that, together with the term of any further lease or licence that may be granted under an option in respect of it, exceeds 99 years. 35

20 Disposal of non-core land

- (1) The Authority may, with the consent of the Minister and subject to such conditions as the Minister thinks fit, sell, lease, exchange or otherwise dispose of or deal with non-core land and grant easements or rights-of-way over non-core land or any part of it. 5
- (2) This section does not require the Authority to obtain the consent of the Minister to a lease or licence for a term that, together with the term of any further lease or licence that may be granted under an option in respect of it, does not exceed 5 years.

21 Dedication of land 10

- (1) The Authority may, by notification published in the Gazette, declare that it proposes to surrender land described or referred to in the notification to the Crown to be dedicated:
- (a) for any public purpose specified in the notification, or
 - (b) if so specified in the notification, as a public road. 15
- (2) When the land is surrendered:
- (a) it becomes Crown land reserved from sale, lease or licence under the *Crown Lands Act 1989*, and
 - (b) on revocation of the reservation, it may be dedicated under that Act for the public purpose specified in the notification or under section 12 of the *Roads Act 1993* as a public road. 20
- (3) The Authority may, in a notification published under subsection (1), limit the description of, or reference to, land to a specified depth below the surface of the land. If the description or reference is so limited, subsection (2) does not apply to land below the specified depth. 25
- (4) The Authority may, by notification published in the Gazette, declare any elevated or subterranean structure owned by the Authority that continues the line of a public road to be a public road. On the publication of the notification in the Gazette, the structure, except in relation to any vesting of the structure, is taken to be a public road. 30

22 Roads

- (1) A road that is core land, non-core land or managed land cannot be provided, opened, dedicated, closed (within the meaning of Part 4 of the *Roads Act 1993*) or realigned by the Crown, a public authority or any person except with the consent of the Authority. 5
- (2) Except as provided by subsection (1), this Part does not affect the application of the *Roads Act 1993* or any other Act to a road that is core land, non-core land or managed land.
- (3) The Authority is a roads authority for the purposes of the *Roads Act 1993* in respect of the public roads vested in it. 10

23 Parking

- (1) The Authority has, in relation to core land, non-core land and managed land, the same functions as a council has under Part 3B of the *Traffic Act 1909* in relation to the area of the council and, accordingly, a reference in Part 3B of that Act: 15
 - (a) to a council is taken to include a reference to the Authority, and
 - (b) to the area of a council is taken to include a reference to core land, non-core land and managed land.
- (2) This section is subject to any regulations that may be made for the purposes of Part 3B of the *Traffic Act 1909*. 20

24 Acquisition of property by gift, devise or bequest

- (1) The Authority may acquire by gift, devise or bequest any property for the purposes of this Act and may agree to carry out the conditions of any such gift, devise or bequest. 25
- (2) The rule of law against remoteness of vesting does not apply to any condition of a gift, devise or bequest to which the Authority has agreed.
- (3) The *Duties Act 1997* does not apply to or in respect of any gift inter vivos, devise or bequest made or to be made to the Authority. 30

25 Dealings with certain property acquired by gift, devise or bequest

- (1) The Authority must not sell, lease, exchange or otherwise dispose of or deal with property acquired by gift inter vivos, devise or bequest except: 5
- (a) if the property has been acquired subject to a condition to which the Authority has agreed under section 24 (1), in accordance with the condition, or
- (b) in any other case with the approval of the Minister.
- (2) Despite subsection (1) but subject to subsection (3), if the Authority decides that any property that has been acquired by the Authority subject to a condition to which the Authority has agreed under section 24 (1) is not required for the purposes of the Authority, the Authority may: 10
- (a) sell the property and retain the proceeds of the sale as property of the Authority, or 15
- (b) exchange the property for other property, or
- (c) if the Authority is of the opinion that the property is of no commercial value, dispose of the property without valuable consideration, 20
- in contravention of the condition.
- (3) The Authority must not sell, exchange or otherwise dispose of any property under subsection (2) except with the consent of the Minister and in accordance with any condition the Minister may impose upon the grant of that consent. 25
- (4) The Minister may consent to the sale, exchange or disposal of property for the purposes of this section and may impose any condition the Minister thinks fit upon the grant of that consent.

26 Exercise of Authority's functions

The Authority, in the exercise of its functions, may arrange for the use of the services of any other person, including a government agency or a council. 30

- (1) The Authority may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Authority if the delegate is authorised in writing to do so by the Authority.
- (3) In this section, *authorised person* means:
 - (a) a member of staff of the Authority, or
 - (b) a council or the general manager of a council, or
 - (c) a person of a class approved by the Authority or prescribed by the regulations.

Part 5 Management of Authority

28 Ministerial control

The Authority is subject to the control and direction of the Minister in the exercise of its functions.

29 Board of Authority

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- (1) There is to be a Board of the Authority.
- (2) The Board is to consist of the following members:
 - (a) the Chief Executive Officer,
 - (b) the Director-General of the Department of Urban Affairs and Planning,
 - (c) not more than 5 persons appointed by the Minister.
- (3) Of the members appointed by the Minister, one is to be appointed by the Minister as Chairperson of the Board.
- (4) The Director-General of the Department of Urban Affairs and Planning may be represented at any meeting of the Board by a person nominated by the Director-General.
- (5) All members of the Board are part-time members.
- (6) Schedule 2 has effect with respect to the constitution and procedure of the Board.

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30 Chief Executive Officer

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- (1) The Chief Executive Officer is responsible for the day-to-day management of the affairs of the Authority in accordance with the specific policies and general directions of the Board.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Authority by the Chief Executive Officer is taken to have been done by the Authority.

25

31 Staff of Authority

- (1) The staff of the Authority are (subject to this section) to be employed under Part 2 of the *Public Sector Management Act 1988*.

30

- (2) The Authority may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government agency. For the purposes of this Act, a person whose services are utilised under this subsection is a member of the staff of the Authority. 5
- (3) The Authority may employ casual staff otherwise than under the *Public Sector Management Act 1988*. A person so employed continues in the service of the Authority at the will of the Authority only.
- (4) The Authority may engage consultants or other persons for the purpose of obtaining services, information or advice. 10

32 Rangers

- (1) The Authority may appoint a person employed or engaged under section 31 to be a ranger for the purposes of this Act.
- (2) A ranger may exercise such functions as are conferred on a ranger by the regulations. 15
- (3) The Authority is to provide each ranger with an identification card.
- (4) An identification card is a card that:
 - (a) states that it is issued under this Act, and 20
 - (b) gives the name of the person to whom it is issued, and
 - (c) describes the nature of the powers conferred, and
 - (d) states the date (if any) on which it expires, and
 - (e) is signed by the Chief Executive Officer.
- (5) In the course of exercising the functions of a ranger under this Act, the ranger must, if requested to do so by a person affected by the exercise of any such function, produce the ranger's identification card to the person. 25

Part 6 Finance

33 Sydney Harbour Foreshore Fund

- (1) There is to be established in the Special Deposits Account a Sydney Harbour Foreshore Fund (the *Fund*) into which is to be paid: 5
- (a) all money advanced to the Authority by the Treasurer or appropriated by Parliament for the purposes of the Authority, and
- (b) all money directed or authorised to be paid into the Fund by or under this or any other Act, and 10
- (c) the proceeds of the investment of money in the Fund, and
- (d) all money received by the Authority from any other source.
- (2) The Fund is to be applied for the purpose of enabling the Authority to exercise its functions. 15
- (3) All expenditure incurred by the Authority is to be paid from the Fund.

34 Investment of money in Fund

- The Authority may invest money in the Sydney Harbour Foreshore Fund: 20
- (a) in the manner authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Authority to invest the money, in any other manner approved by the Minister with the concurrence of the Treasurer. 25

35 Administration of other funds

- (1) The Authority may administer a fund established for the provision of services within the foreshore area to which money is paid by persons who carry on business within the foreshore area.
- (2) The Auditor-General is to audit any such fund, in the year it is established and in each year thereafter, as if the Minister had requested the Auditor-General to do so under section 45 of the *Public Finance and Audit Act 1983*. 30

Part 7 Miscellaneous

36 Appointment of advisory committees

- (1) The Minister may, on the recommendation of the Board, appoint such advisory committees as the Minister considers appropriate.
- (2) An advisory committee has such functions as the Minister may from time to time determine in respect of it. 5
- (3) An advisory committee consists of such committee members appointed by the Minister as the Minister thinks fit.
- (4) A committee member holds office for such period as is specified in the instrument of appointment of the committee member, but any such appointment may be terminated by the Minister at any time. 10
- (5) One of the committee members, in and by the instrument by which the committee member is appointed, is to be appointed as chairperson of the committee. 15
- (6) A committee member is entitled to be paid such fees and allowances (if any) as the Minister may determine in respect of the committee member.
- (7) The office of a committee member is, for the purposes of any Act, taken not to be an office or place of profit under the Crown. 20

37 Disclosure of information

- A person must not disclose any information obtained in connection with the administration or execution of this Act (or any other Act conferring or imposing functions on the Authority) unless that disclosure is made: 25
- (a) with the consent of the person from whom the information was obtained, or
 - (b) in connection with the administration or execution of this Act (or any such other Act), or
 - (c) for the purposes of any legal proceedings arising out of this Act (or any such other Act) or of any report of any such proceedings, or 30

(d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or

(e) with other lawful excuse.

Maximum penalty: 20 penalty units or imprisonment for 6 months.

5

Note. The amount for the time being of a penalty unit is specified by section 56 of the *Interpretation Act 1987*.

38 Misuse of information

(1) If, through association with the Authority, a person has knowledge of specific information relating to proposals made, or to be made, by the Authority in respect of the acquisition, development or disposal of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, the person contravenes this subsection if the person:

10

(a) deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for the person by the use of that information, or

15

(b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

20

Maximum penalty: 20 penalty units.

Note. The amount for the time being of a penalty unit is specified by section 56 of the *Interpretation Act 1987*.

25

(2) If, through association with the Authority, a person is in a position to influence proposals made, or to be made, by the Authority in respect of the acquisition, development or disposal of land and does influence the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, the person contravenes this subsection if:

30

(a) the person does so for the purpose of gaining an advantage for the person, or

- (b) the person does so for the purpose of enabling another person to gain an advantage.

Maximum penalty: 20 penalty units.

- (3) If:

- (a) a contravention of subsection (1) occurs and an advantage referred to in that subsection is gained from any dealing in land to which the contravention relates, or 5
- (b) a contravention of subsection (2) occurs and an advantage referred to in that subsection is gained from any dealing in land to which the contravention relates, being an advantage which would not have been gained if the proposals concerned had not been influenced, 10

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence in respect of a contravention of subsection (1) or (2), liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage. 15

- (4) If a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and: 20

- (a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been generally known at that time, or 25
- (b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced. 30

- (5) An action to recover a loss referred to in subsection (3) may not be brought more than 5 years after the dealing in land in relation to which the loss was incurred. 35

-
- (6) For the purposes of this section, a person is associated with the Authority:
- (a) if the person is a member of the Board, or a member of staff of the Authority, or a person of whose services the Authority makes use, or who is otherwise appointed, employed or engaged, pursuant to this Act, or 5
 - (b) if the person is a committee member of an advisory committee, or
 - (c) if the person is an officer of the Department within the meaning of the *Environmental Planning and Assessment Act 1979* or a person who is a member of a committee or subcommittee established by or under that Act, or 10
 - (d) if the person is an officer or an employee of a council, or
 - (e) if the person acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the Authority, the Minister, the Department of Urban Affairs and Planning or a council, or 15
 - (f) where the person, so associated by virtue of paragraph (e), is a corporation, if the person is a director, manager or secretary of the corporation. 20

39 Personal liability

A matter or thing done or omitted to be done by the Authority, the Board or a member of the Board, the Chief Executive Officer or a person acting under the direction of the Authority, the Board or the Chief Executive Officer does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject the member of the Board, the Chief Executive Officer or the person so acting personally to any action, liability, claim or demand. 25

40 Financial year 30

- (1) The financial year of the Authority is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

41 Seal of Authority

The seal of the Authority is to be kept by the Chief Executive Officer, or by a member of the staff of the Authority authorised in that behalf by the Chief Executive Officer, and may be fixed to a document only:

5

- (a) in the presence of the Chief Executive Officer or that member of the staff, and
- (b) with an attestation by the signature of the Chief Executive Officer or that member of staff of the fact of the fixing of the seal.

10

42 Recovery of money

Any charge, fee or money due or payable to the Authority may be recovered as a debt.

43 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

15

44 Proceedings for offences

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

20

45 Amendment of Schedule 1

- (1) The regulations may amend Schedule 1:

- (a) by omitting any matter, or
- (b) by inserting any matter, or
- (c) by altering any matter.

25

- (2) The regulations may omit Schedule 1 and insert instead a Schedule that specifies or describes land on or in the vicinity of the foreshores of Sydney Harbour.

46 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. 5
- (2) In particular, regulations may be made for or with respect to the following:
 - (a) the functions of the Authority and any member of staff of the Authority, including rangers,
 - (b) the fees and charges that may be imposed for the purposes of this Act, 10
 - (c) the procedures of advisory committees,
 - (d) regulating the use by the public of core land, non-core land, managed land or the public domain,
 - (e) regulating the use of facilities of the Authority and the provision of services by the Authority, 15
 - (f) requiring the payment of fares or other charges for the use of any facility operated or service provided by the Authority,
 - (g) authorising a person granted a lease, licence or other authority by the Authority to require the payment of fares or other charges for the use of any facility operated or service provided under the lease, licence or other authority, 20
 - (h) ensuring the proper conduct and safety of persons on core land, non-core land, managed land or the public domain or while using any facility or service referred to in paragraph (e) or (f), 25
 - (i) providing for the removal of trespassers and persons causing nuisance or annoyance to others while in the foreshore area, 30
 - (j) conferring on the Authority any function that may be exercised by a council in relation to a public place.
- (3) The regulations may create an offence punishable by a maximum penalty of 50 penalty units.

Note. The amount for the time being of a penalty unit is specified by section 56 of the *Interpretation Act 1987*. 35

Clause 47 Sydney Harbour Foreshore Authority Bill 1998

Part 7 Miscellaneous

47 Amendment of Growth Centres (Development Corporations) Act 1974 No 49

The *Growth Centres (Development Corporations) Act 1974* is amended by omitting the matter relating to Part 3 in Schedule 1.

48 Repeal of Sydney Cove Redevelopment Authority Act 1968 No 56 5

The *Sydney Cove Redevelopment Authority Act 1968* is repealed.

49 Repeal of Darling Harbour Authority Act 1984 No 103 and other instruments

The following Acts and instruments are repealed: 10

Darling Harbour Authority Act 1984 No 103

Darling Harbour Authority (Amendment) Act 1985 No 50

Darling Harbour Authority (Amendment) Act 1988 No 55

Darling Harbour Authority Amendment and Repeal Act 1998 No 29 15

Darling Harbour Authority (General) Regulation 1994

Darling Harbour (Management of Public Areas) Regulation 1995

50 Amendment of Acts and instruments as a consequence of dissolution of Sydney Cove Redevelopment Authority and City West Development Corporation 20

Each Act and instrument specified in Schedule 3 is amended as set out in that Schedule.

51 Amendment of Acts and instruments as a consequence of dissolution of Darling Harbour Authority 25

Each Act and instrument specified in Schedule 4 is amended as set out in that Schedule.

52 Savings, transitional and other provisions

Schedule 5 has effect.

53 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

5

Schedule 1 Foreshore area

(Section 5)

The area of land bounded by a heavy black line drawn on the map marked "Sydney Harbour Foreshore Authority—Foreshore Area" catalogue no 05099916001, copies of which are deposited, on the date of commencement of this Schedule, in the offices of the Authority and the Department of Urban Affairs and Planning. 5

Schedule 2 Constitution and procedure of Board

(Section 29 (6))

Part 1 General

1 Definitions

In this Schedule:

5

appointed member means a person who is appointed by the Minister as a member of the Board.

member means any member of the Board.

Part 2 Constitution

2 Terms of office of members

10

Subject to this Schedule and the regulations, an appointed member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Part-time appointments

15

Appointed members hold office as part-time members.

4 Remuneration

An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

20

5 Vacancy in office of member

(1) The office of an appointed member becomes vacant if the member:

(a) dies, or

(b) completes a term of office and is not re-appointed, or

25

(c) resigns the office by instrument in writing addressed to the Minister, or

- (d) is removed from office by the Minister under this clause,
or
 - (e) is absent from 3 consecutive meetings of the Board of
which reasonable notice has been given to the member
personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister
for having been absent from those meetings, or 5
 - (f) becomes bankrupt, applies to take the benefit of any law
for the relief of bankrupt or insolvent debtors, compounds
with his or her creditors or makes an assignment of his or
her remuneration for their benefit, or 10
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is
punishable by penal servitude or imprisonment for 12
months or more or is convicted elsewhere than in New
South Wales of an offence that, if committed in New
South Wales, would be an offence so punishable. 15
- (2) The Minister may remove an appointed member from office at
any time.
- 6 Filling of vacancy in office of appointed member 20**
- If the office of any appointed member becomes vacant, a person
is, subject to this Act and the regulations, to be appointed to fill
the vacancy.
- 7 Chairperson**
- (1) The Chairperson vacates office as Chairperson if he or she: 25
 - (a) is removed from that office by the Minister under this
clause, or
 - (b) resigns that office by instrument in writing addressed to
the Minister, or
 - (c) ceases to be a member of the Board. 30
 - (2) The Minister may at any time remove the Chairperson from
office as Chairperson.

8 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and 5
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board. 10
- (2) A disclosure by a member at a meeting of the Board that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or 15
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1). 20
- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board. 25
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Board otherwise determines: 30
 - (a) be present during any deliberation of the Board with respect to the matter, or
 - (b) take part in any decision of the Board with respect to the matter.

- (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.

9 Effect of certain other Acts 10

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of an appointed member.
- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as a member.

Part 3 Procedure

10 General procedure

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

11 Quorum

The quorum for a meeting of the Board is a majority of its members for the time being.

12 Presiding member

- (1) The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the Board who are present at a meeting of the Board) is to preside at a meeting of the Board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote. 5

13 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board. 10

14 Transaction of business outside meetings or by telephone

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Board. 15
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members. 20
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),
 the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Board. 25
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned. 30

15 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit. 35

Schedule 3	Amendments consequent on dissolution of Sydney Cove Redevelopment Authority and City West Development Corporation	
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**Schedule 3 Amendments consequent on
dissolution of Sydney Cove
Redevelopment Authority and City
West Development Corporation**

(Section 50) 5

3.1 Environmental Offences and Penalties Act 1989 No 150

Schedule 2 Penalty notices

Insert after clause 2 of Part 1:

- 2A** For the purposes of this Schedule, a class 9 officer means
the Chief Executive Officer or a member of staff of the 10
Sydney Harbour Foreshore Authority, or an officer or
employee of a body corporate providing services under
an arrangement with the Authority whereby the officer
or employee is acting under the direction and control of
the Authority, who is duly authorised by the Authority to 15
exercise the functions of an authorised officer under
section 8G.

**3.2 Environmental Planning and Assessment Act 1979
No 203**

[1] Schedule 6 Savings, transitional and other provisions 20

Omit clause 22. Insert instead:

22 Consent authority

- (1) The consent authority with respect to land in the Darling
Harbour Development Area is the Minister, except in
relation to a Part 4A certificate for which the consent 25
authority is the Darling Harbour Authority and, on its
dissolution, the Sydney Harbour Foreshore Authority.

- (2) Subclause (1) does not apply with respect to land in the Darling Harbour Development Area if a State environmental planning policy referred to in clause 26 (1) or a regional environmental plan or local environmental plan referred to in clause 26 (3) specifies a consent authority with respect to that land. 5

[2] Schedule 6, clause 28

Omit the clause. Insert instead:

28 Consent authority

- (1) The consent authority with respect to land in the Sydney Cove Development Area is the Minister, except in relation to a Part 4A certificate, for which the consent authority is the Sydney Harbour Foreshore Authority. 10
- (2) Subclause (1) does not apply to land in the Sydney Cove Development Area if a State environmental planning policy referred to in clause 32 (1) or a regional environmental plan or local environmental plan referred to in clause 32 (3) specifies a consent authority with respect to that land. 15

[3] Schedule 6, clause 31 20

Omit "Sydney Cove Redevelopment Authority".
Insert instead "Sydney Harbour Foreshore Authority".

3.3 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit "Sydney Cove Redevelopment Authority" from Part 1. 25

**3.4 Government and Related Employees Appeal Tribunal
Act 1980 No 39**

Schedule 4 Employing authorities

Omit "Sydney Cove Redevelopment Authority."

3.5 Impounding Act 1993 No 31

5

[1] Dictionary of expressions used in this Act

Insert before the last dot point in the definition of *area of operations*:

- in the case of an impounding officer appointed by the Sydney Harbour Foreshore Authority, any land within the foreshore area within the meaning of the *Sydney Harbour Foreshore Authority Act 1998*, 10

[2] Dictionary of expressions used in this Act

Insert before the last dot point in the definition of *impounding authority*: 15

- the Sydney Harbour Foreshore Authority,

3.6 Land Tax Act 1956 No 27

Section 5 Land tax liability of certain corporations

Omit section 5 (1) (e).

3.7 Land Tax Management Act 1956 No 26

[1] Section 10 Land exempted from tax

Omit "10C," from section 10 (1).

[2] Section 10 (2) (a)

Omit " , 10C (1) (a)".

5

[3] Section 10C Taxation of land owned by Sydney Cove Redevelopment Authority

Omit the section.

3.8 Local Government Act 1993 No 30

[1] Section 742 Dispute resolution

10

Insert at the end of section 742 (7):

- the Sydney Harbour Foreshore Authority.

[2] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Omit Part 9.

15

3.9 Motor Traffic Regulations 1935

Regulation 130A Prescribed officers and offences (section 18B)

Insert after Regulation 130A (1) (g) (iii):

- (iv) a person who is subject to the control and direction of the Sydney Harbour Foreshore Authority as an enforcement officer.

20

Sydney Harbour Foreshore Authority Bill 1998

Schedule 3	Amendments consequent on dissolution of Sydney Cove Redevelopment Authority and City West Development Corporation
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3.10 New South Wales Retirement Benefits Act 1972 No 70

Schedule 2

Omit the matter relating to Sydney Cove Redevelopment Authority.

**3.11 Public Authorities (Financial Arrangements) Act 1987
No 33**

5

[1] Schedule 1 Authorities

Omit "Sydney Cove Redevelopment Authority".

[2] Schedule 1

Insert in alphabetical order:

Sydney Harbour Foreshore Authority.

10

**3.12 Public Authorities (Financial Arrangements) Regulation
1995**

[1] Schedule 1 Part 1 investment powers

Insert in alphabetical order:

Sydney Harbour Foreshore Authority

15

[2] Schedule 2 Part 2 investment powers

Omit "Sydney Cove Redevelopment Authority".

3.13 Public Authorities Superannuation Act 1985 No 41

Schedule 3 Employers

Omit "The Sydney Cove Redevelopment Authority." from Part 2.

3.14 Public Finance and Audit Act 1983 No 152

[1] Schedule 2 Statutory bodies

5

Omit "Sydney Cove Redevelopment Authority."

[2] Schedule 2

Insert in alphabetical order:

Sydney Harbour Foreshore Authority.

3.15 Public Finance and Audit (General) Regulation 1995

10

Clause 17 Definitions of "authority" and "officer of an authority"

Omit "City West Development Corporation" from Part B of the Table to clause 17 (4).

3.16 Public Sector Management Act 1988 No 33

[1] Schedule 1 Departments

15

Insert in alphabetical order in Columns 1 and 2:

Sydney Harbour Foreshore
Authority

Chief Executive Officer
of the Authority

Sydney Harbour Foreshore Authority Bill 1998

Schedule 3 Amendments consequent on dissolution of Sydney Cove
Redevelopment Authority and City West Development Corporation

[2] Schedule 3 Declared authorities

Omit "Sydney Cove Redevelopment Authority".

[3] Schedule 3A Chief executive positions

Omit "Director of the Sydney Cove Redevelopment Authority" from
Part 3.

5

[4] Schedule 3B Senior executive positions

Omit from Part 1:

Sydney Cove Redevelopment Authority

Assistant Director

[5] Schedule 3B, Part 1

10

Omit from the matter relating to the Department of Urban Affairs
and Planning:

General Manager, City West Development Corporation

Operations Manager, City West Development
Corporation

15

**3.17 State Authorities Non-contributory Superannuation Act
1987 No 212**

Schedule 1 Employers

Omit "Sydney Cove Redevelopment Authority" from Part 1.

3.18 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit "Sydney Cove Redevelopment Authority" from Part 1.

3.19 State Public Service Superannuation Act 1985 No 45

Schedule 3 Employers

5

Omit "Sydney Cove Redevelopment Authority".

**3.20 Strata Schemes (Leasehold Development) Act 1986
No 219**

Section 4 Definitions

Omit paragraph (c) from the definition of *local council* in section 4 10
(1).

Insert instead:

- (c) in relation to the land described in section 6 (a) of
the *Sydney Harbour Foreshore Authority Act*
1998—the Sydney Harbour Foreshore Authority, 15
except to the extent that regulations under that Act
may otherwise provide, or

3.21 Superannuation Act 1916 No 28

Schedule 3 List of employers

Omit "Sydney Cove Redevelopment Authority" from Part 1. 20

**Schedule 4 Amendments consequent on
dissolution of Darling Harbour
Authority**

(Section 51)

- 4.1 Environmental Offences and Penalties Act 1989 No 150** 5
- Schedule 2 Penalty notices**
- Omit clause 3.
- 4.2 Environmental Planning and Assessment Act 1979
No 203**
- Schedule 6 Savings, transitional and other provisions** 10
- Omit clause 25.
- 4.3 Impounding Act 1993 No 31**
- [1] Dictionary of expressions used in this Act**
- Omit the tenth dot point paragraph from the definition of *area of operations*. 15
- [2] Dictionary of expressions used in this Act**
- Omit the tenth dot point paragraph from the definition of *impounding authority*.
- 4.4 Local Government Act 1993 No 30**
- Section 742 Dispute resolution** 20
- Omit the third dot point paragraph from section 742 (7).

4.5 Motor Traffic Regulations 1935

Regulation 130A Prescribed officers and offences (section 18B)

Omit Regulation 130A (1) (g) (iii).

**4.6 Public Authorities (Financial Arrangements) Act 1987
No 33**

5

Schedule 1 Authorities

Omit "Darling Harbour Authority."

**4.7 Public Authorities (Financial Arrangements) Regulation
1995**

Schedule 1 Part 1 investment powers

10

Omit "Darling Harbour Authority".

4.8 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit "Darling Harbour Authority."

4.9 Public Sector Management Act 1988 No 33

15

Schedule 1 Departments

Omit the matter relating to the Darling Harbour Authority.

4.10 Rail Safety Act 1993 No 50

[1] Section 8 Railways to which Act applies

Insert after section 8 (1) (a):

- (a1) the Darling Harbour monorail transport system,
and

5

[2] Section 97 Darling Harbour monorail transport system etc

Omit the section.

[3] Schedule 4 Savings and transitional provisions

Omit clause 1 (1). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act and the following Acts: 10

Traffic Legislation Amendment Act 1997 (but only in relation to the amendments made to this Act)

Sydney Harbour Foreshore Authority Act 1998 (but only in relation to the amendments made to this Act) 15

[4] Schedule 4

Insert in the Schedule (with appropriate Part and clause numbers)

**Part Provisions consequent on enactment of
Sydney Harbour Foreshore Authority Act
1998** 20

Darling Harbour (Monorail) Regulation 1995

The *Darling Harbour (Monorail) Regulation 1995* is taken to be a regulation under this Act, and may be amended and repealed accordingly. 25

**4.11 Strata Schemes (Leasehold Development) Act 1986
No 219**

Section 4 Definitions

Omit paragraph (b) from the definition of *local council* in section 4 (1).

5

4.12 Transport Administration Act 1988 No 109

[1] Schedule 7 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

Sydney Harbour Foreshore Authority Act 1998

[2] Schedule 7

10

Insert in the Schedule (with appropriate Part and clause numbers):

**Part Provisions consequent on enactment of
Sydney Harbour Foreshore Authority Act
1998**

Darling Harbour monorail transport system

15

(1) The Darling Harbour monorail transport system is taken to be a light rail system for the purposes of this Act.

(2) Subject to the regulations, the route of the Darling Harbour monorail transport system, as it was immediately before the repeal of the *Darling Harbour Authority Act 1984*, is taken to have been declared under section 104N (2).

20

(3) Section 104P (3) does not apply to the operation of the Darling Harbour monorail transport system along the route referred to in subclause (2).

25

Schedule 5 Savings, transitional and other provisions

(Section 52)

Part 1 General

- 1 Regulations** 5
- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date. 10
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: 15
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 20

Part 2 Provisions consequent on enactment of this Act

2 Definitions

In this Schedule: 25

assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

former Authority means the Sydney Cove Redevelopment Authority, the City West Development Corporation or the Darling Harbour Authority.

liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent).

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new Authority means the Sydney Harbour Foreshore Authority.

rights means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).

3 Dissolution of Sydney Cove Redevelopment Authority

- (1) The Sydney Cove Redevelopment Authority is dissolved. 10
- (2) A person who held office as a member of the Sydney Cove Redevelopment Authority immediately before it is dissolved is not entitled to any compensation for loss of office.

4 Transfer of staff of Sydney Cove Redevelopment Authority

- (1) This clause applies to a person appointed and employed under section 6 of the *Sydney Cove Redevelopment Authority Act 1968* immediately before the day on which the Sydney Cove Redevelopment Authority is dissolved, other than a person to whom clause 12 applies. 15
- (2) A person to whom this clause applies is entitled to be appointed to a position in the Public Service in accordance with this clause. 20
- (3) The Governor may, on the recommendation of the Minister, by order published in the Gazette, transfer a person to whom this clause applies to a position in the Public Service (being a position in the new Authority). 25
- (4) A person who is the subject of an order under this clause is to be regarded for all purposes as having become an officer of the Public Service, in accordance with the terms of the order, on the day the Sydney Cove Redevelopment Authority is dissolved.
- (5) This clause has effect despite anything in the *Public Sector Management Act 1988* and a person transferred under this clause is to be regarded as having been transferred in accordance with any relevant provision of that Act. 30

- (6) A person who is the subject of an order under this clause is taken to be a person who ceases to be employed in a public sector service and immediately commences service in another public sector service within the meaning of Schedule 5A to the *Public Sector Management Act 1988* and Schedule 5A to that Act applies to the person accordingly. 5

5 Dissolution of City West Development Corporation

- (1) The City West Development Corporation is dissolved.
- (2) A person who held office as a member of the City West Development Corporation immediately before it is dissolved is not entitled to any compensation for loss of office. 10

6 Transfer of certain staff attached to City West Development Corporation

- (1) The group of staff attached to the City West Development Corporation is removed from the Department of Urban Affairs and Planning and added to the group of staff attached to the new Authority. 15
- (2) Section 8 (5) of the *Public Sector Management Act 1988* applies to the removal of staff in accordance with this clause in the same way as it applies to the removal by the Governor of a branch from a Department and the adding of that branch to another Department under section 55A of that Act. 20

7 Dissolution of Darling Harbour Authority

- (1) The Darling Harbour Authority is dissolved.
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each member of the Authority as if the member had been removed from office by the Governor under section 90 of that Act. 25

8 Abolition of department and transfer of branches

- (1) The Darling Harbour Authority is abolished as a department of the Public Service. 30

- (2) All branches of that department are removed from that department and added to the group of public service staff attached to the new Authority.
- (3) Section 8 (5) of the *Public Sector Management Act 1988* applies to the removal of staff in accordance with this clause in the same way as it applies to the removal by the Governor of a branch from a Department and the adding of that branch to another Department under section 55A of that Act. 5

9 Transfer of certain staff of Darling Harbour Authority

- (1) This clause applies to a person appointed and employed under section 8 (3) of the *Darling Harbour Authority Act 1984* immediately before the day on which the Darling Harbour Authority is dissolved. 10
- (2) A person to whom this clause applies is entitled to be appointed to a position in the Public Service in accordance with this clause. 15
- (3) The Governor may, on the recommendation of the Minister, by order published in the Gazette, transfer a person to whom this clause applies to a position in the Public Service (being a position in the new Authority).
- (4) A person who is the subject of an order under this clause is to be regarded for all purposes as having become an officer of the Public Service, in accordance with the terms of the order, on the day the Darling Harbour Authority is dissolved. 20
- (5) This clause has effect despite anything in the *Public Sector Management Act 1988* and a person transferred under this clause is to be regarded as having been transferred in accordance with any relevant provision of that Act. 25
- (6) A person who is the subject of an order under this clause is taken to be a person who ceases to be employed in a public sector service and immediately commences service in another public sector service within the meaning of Schedule 5A to the *Public Sector Management Act 1988* and Schedule 5A to that Act applies to the person accordingly. 30

10 Construction of certain references

- (1) On the dissolution of a former Authority, a reference in any Act, in any instrument made under any Act or in any document of any kind to the former Authority or a predecessor of the former Authority, is taken to be a reference to the new Authority. 5
- (2) On the dissolution of a former Authority, a reference in any Act, in any instrument made under any Act or in any document of any kind to:
- (a) the Director of the Sydney Cove Redevelopment Authority, in the case of the dissolution of that Authority, or 10
- (b) the General Manager of the City West Development Corporation, in the case of the dissolution of that Corporation, or
- (c) the General Manager of the Darling Harbour Authority, in the case of the dissolution of that Authority, 15
- is taken to be a reference to the Chief Executive Officer of the new Authority.

11 Chief Executive Officer of the new Authority

On the dissolution of City West Development Corporation, the person who, immediately before its dissolution, held office as General Manager of City West Development Corporation is taken to be appointed under Part 2 of the *Public Sector Management Act 1988* as Chief Executive Officer of the new Authority for the balance of the term of office as General Manager that remained immediately before its dissolution and subject to the same terms and conditions as those on which the person held office immediately before its dissolution, until those terms and conditions are varied in accordance with law. 20 25

12 Other executive officers

- (1) A person (other than the General Manager of City West Development Corporation) who, immediately before the 30

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- dissolution of a former Authority, held a senior executive position or a chief executive position within the meaning of the *Public Sector Management Act 1988* in a former Authority is, on that dissolution, taken to have been removed from that position by the Governor under section 42Q (1) of that Act and declared by the Governor under section 42Q (2) of that Act to be an unattached officer in the Public Service. 5
- (2) For the purposes of section 42Q (3) (c) of the *Public Sector Management Act 1988* and the provisions of that Act referred to in that paragraph, such a person is to be regarded as holding an equivalent (though notional) executive position in the Department comprising the group of staff attached to the new Authority. 10
- (3) A person who is taken to be removed from a position in the Sydney Cove Redevelopment Authority and declared to be an unattached officer in the Public Service under this clause is taken to be a person who ceases to be employed in a public sector service and immediately commences service in another public sector service within the meaning of Schedule 5A to the *Public Sector Management Act 1988* and Schedule 5A to that Act applies to the person accordingly. 15 20

13 Vesting of undertaking of former Authority in new Authority

- (1) On the dissolution of a former Authority, the following provisions have effect:
- (a) the assets of the former Authority vest in the new Authority by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance, 25
- (b) the rights or liabilities of the former Authority become by virtue of this clause the rights or liabilities of the new Authority, 30
- (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Authority or a predecessor of the former Authority and pending immediately before the transfer are taken to be proceedings pending by or against the new Authority, 35

- (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Authority is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Authority. 5
 - (2) The operation of this clause is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or 10
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability. 15
 - (3) The operation of this clause is not to be regarded as an event of default under any contract or other instrument.
 - (4) No attornment to the transferee by a lessee from the former Authority is required. 20
 - (5) No compensation is payable to any person or body in connection with a transfer.
 - (6) Subclause (5) does not affect the rights of any member of staff who is the subject of a transfer.
- 14 Vesting of certain land in the new Authority** 25
- (1) On the commencement of this clause:
 - (a) the land shown hatched and edged heavy black on the map marked "Dawes Point Park" catalogue no 05099916002, copies of which are deposited, on that commencement, in the offices of the new Authority and the Department of Urban Affairs and Planning, and 30

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- (b) the land shown coloured pink on the map catalogue no 05099916004, copies of which are deposited, on that commencement, in the offices of the new Authority and the Department of Urban Affairs and Planning,
- vests in the new Authority for an estate in fee simple, subject to any trusts, estates, interests, dedications, conditions, restrictions and covenants to which the land was subject immediately before that commencement, except any trust of which the Sydney City Council was the trustee. 5
- (2) The vesting of land in accordance with this clause is subject to any limitation as to the height or depth of the land concerned that may be shown on the relevant plan. 10
- (3) No compensation is payable to any person or body in connection with the vesting.
- (4) The Authority may agree to pay income (or a portion of any income) derived from any part of the land vested in accordance with this clause to the Sydney City Council or a public authority. 15
- (5) This clause does not vest any fee simple estate of the Roads and Traffic Authority, the State Transit Authority or the State Rail Authority in the new Authority. 20
- 15 Transfer duty**
- Duty under the *Duties Act 1997* is not chargeable for or in respect of:
- (a) a transfer effected by or under this Schedule, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or conveyance of an interest in land). 25
- 16 Notification of interests**
- (1) The Registrar-General must, at the request of the new Authority made in a manner approved by the Registrar-General and on payment of the fee prescribed under the *Real Property Act 1900*, make, in the Register kept under that Act, a recording appropriate to signify that a recording made pursuant to section 17 (1) (a) of the *Darling Harbour Authority Act 1984* has ceased to have effect. 30
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- (2) If a recording pursuant to section 17 (1) (a) of the *Darling Harbour Authority Act 1984* has been made in respect of any land, the Registrar-General must not register under the *Real Property Act 1900* a transfer of that land to or by a person other than the new Authority unless the transfer would (but for this subclause) be so registrable and unless:
- (a) a recording pursuant to subclause (1) has been made in respect of the land, or
- (b) the consent of the new Authority to the transfer has been endorsed on the transfer.
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17 Making of orders under Public Sector Management Act 1988

This Schedule is subject to any order that may be made with respect to a former Authority or the new Authority under the *Public Sector Management Act 1988*.

18 Roads in course of construction

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The Roads and Traffic Authority is not required to obtain the consent of the new Authority under section 22 with respect to the provision, opening or dedication of any road the construction of which was commenced before the commencement of this clause.

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